

**UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF OHIO  
WESTERN DIVISION AT DAYTON**

**UNITED STATES OF AMERICA,**

**Plaintiff,**

**v.**

**JOHN M. SEMBER,**

**Defendant.**

**Case No. 3:14-cr-141**

**Judge Thomas M. Rose**

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**ENTRY AND ORDER DENYING DEFENDANT'S MOTION IN LIMINE  
AND OBJECTION TO PARTICULAR PROPOSED GOVERNMENT  
EXHIBITS (DOC. 106) AND OVERRULING DEFENDANT'S OBJECTIONS  
(DOC. 108) TO THE GOVERNMENT'S NOTICE OF INTENT TO  
INTRODUCE FED. R. EVID. 404(b) EVIDENCE (DOC. 107)**

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This case is before the Court on Defendant's Motion in Limine and Objection to Particular Proposed Government Exhibits ("Motion in Limine") (Doc. 106) and Defendant's Objections (Doc. 108) to the Government's Notice of Intent to Introduce Fed. R. Evid. 404(b) Evidence ("Notice of Intent") (Doc. 107). At issue in both the Motion in Limine and Notice of Intent are three items seized from Defendant's residence on March 28, 2014, that the Government wishes to introduce into evidence at trial: (1) an Air Force Research Laboratory (AFRL) access card, (2) two green engineering notebooks; and (3) a National Air and Space Intelligence Center (NASIC) Scan Disk. Defendant argues that these items should not be admitted into evidence because they were not included in the Bill of Particulars produced by the Government and the Government has failed to meet its burden under Federal Rule of Evidence 404(b) for their admission. The Government argues that Defendant was not authorized to possess these three items at the time that they were seized and, as a result, they are relevant to help prove Defendant's "*motive, opportunity, intent, preparation, plan, knowledge, identity, and/or absence of mistake and/or accident in stealing and converting certain sensitive USAF proprietary data*" after the termination of his

CRPD employment. (Doc. 107 at 5.)

The Government has met its burden under Rule 404(b) for admission of the AFRL access card, two green engineering notebooks, and NASIC Scan Disk. Accordingly, the Motion in Limine (Doc. 106) is **DENIED** and Defendant's Objections (Doc. 108) to the Notice of Intent (Doc. 107) are **OVERRULED**.

**DONE** and **ORDERED** in Dayton, Ohio, this Monday, March 28, 2016.

s/Thomas M. Rose

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THOMAS M. ROSE  
UNITED STATES DISTRICT JUDGE